

Rhode Island and Southeastern Massachusetts Area Contingency Plan

INTRODUCTION

1000 Introduction

This Area Contingency Plan describes the strategy for a coordinated federal, state and local response to a discharge or substantial threat of discharge of oil or a release of a hazardous substance from a vessel, offshore facility, or onshore facility operating within the boundaries of the Rhode Island and Southeastern Massachusetts Area. This plan addresses responses to a most probable discharge, a maximum most probable discharge, and a worst case discharge including discharges from fire or explosion. Planning for the scenarios covers the expected range of spills likely to occur in this area.

This plan shall be used as a framework for response mechanisms to address, as a minimum, the incident command structure, operation, planning, and logistic activities, financial / administrative responsibilities, hazardous material control, and firefighting.

1100 Introduction/Authority

Section 4202 of the [Oil Pollution Act of 1990](#) (OPA 90) amended Subsection (j) of Section 311 of the Federal Water Pollution Control Act (FWPCA) ([33 U.S.C. 1321 \(j\)](#)) to address the development of a National Planning and Response System. As part of this system, Area Committees have been established for each area designated by the President. These Area Committees are comprised of qualified personnel from federal, state, and local agencies. Each Area Committee, under the direction of the Federal On-Scene Coordinator (FOSC) for the area, develops an Area Contingency Plan (ACP) which, when implemented in conjunction with the National Contingency Plan (NCP) ([40 CFR 300](#)), shall be adequate to remove a worst case discharge of oil or a hazardous substance, and to mitigate or prevent a substantial threat of such a discharge, from a vessel, offshore facility, or onshore facility. Each Area Committee also works with state and local officials to pre-plan for joint response efforts, including appropriate procedures for mechanical recovery, dispersal, shoreline cleanup, protection of sensitive environmental areas, and protection, rescue, and rehabilitation of fisheries and wildlife. The Area Committee also works with state and local officials to expedite decisions for the use of dispersants and other mitigating substances and devices.

The functions of designating areas, appointing Area Committee members, determining the information to be included in Area Contingency Plans, and reviewing and approving Area Contingency Plans have been delegated by [Executive Order 12777 of 22 October 1991](#), to the Commandant of the U.S. Coast Guard (through the Secretary of Transportation) for the coastal zone, and to the Administrator of the Environmental Protection Agency for the inland zone. The term "coastal zone" is defined in the current NCP ([40 CFR 300.5](#)) to mean all United States waters subject to the tide, United States waters of the Great Lakes, specified ports and harbors on inland rivers, and the waters of the Exclusive Economic Zone (EEZ). The Coast Guard has designated as areas, those portions of the Captain of the Port (COTP) zones that are within the coastal zone, for which Area Committees will prepare Area Contingency Plans. The COTP zones are described in Coast Guard regulations ([33 CFR Part 3](#)).

CG MLCLANT has provided a [Quick Reference Chart of Selected Coast Guard Authority and their Jurisdictional Limits](#) that lists various authorities that are frequently used, where and why they may be used, and a citation to the primary authority.

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Several federal, state, and local agencies have a direct role in the enforcement of applicable laws and regulations associated with a discharge, or substantial threat of a discharge, of oil and hazardous substances into the navigable waters of the U.S.

The investigation into alleged violations of the many applicable laws and regulations require a coordinated effort among the many federal, state, local agencies involved. As a preliminary step to enhance the effectiveness of investigative activities and limit the potential negative impact of these activities upon the cleanup and removal actions associated with an incident, the following agencies have been identified as having a direct, field-oriented role in the initial stages of these events:

- | | |
|---|--|
| <input type="checkbox"/> USCG MSO Providence | <input type="checkbox"/> U.S. EPA |
| <input type="checkbox"/> NOAA | <input type="checkbox"/> DOI |
| <input type="checkbox"/> Rhode Island Department of
Environmental Management | <input type="checkbox"/> Massachusetts Department of
Environmental Protection |

MASSACHUSETTS

The Massachusetts Department of Environmental Protection (MADEP) has the responsibility of developing and implementing a program to protect the public and environment from releases of oil and hazardous materials (Massachusetts General Law, Chapter 21E, "Massachusetts Oil and Hazardous Material Release Prevention and Response Act

MADEP has implemented the 21E program through a set of regulations known as the Massachusetts Contingency Plan or "MCP " (310 CMR 40.0000). The MCP establishes procedures and requirements for any person required by M.G.L c 21E to notify the department of a release or threat of release of oil and/or hazardous substances.

RHODE ISLAND

The Rhode Island Department of Environmental Management (RIDEM) in accordance with chapters 46-12 and 23-19 of the Rhode Island General Law is responsible for developing and implementing regulations and programs to protect the public and the environment from releases of oil and hazardous materials.

The primary regulatory authority for the response to releases of oil and hazardous materials is found in the Oil Pollution Control Regulations, the Rules and Regulations for Hazardous Waste Management and the Rules and Regulations for the Investigation and Remediation of Hazardous Material Releases. The regulations require any person who has knowledge of a release or threat of release to report it to the department at 401-222-4700 or 401-222-3070 (24 hour number). Additional information concerning the General Laws of Rhode Island can be found at www.state.ri.us. General information about the RIDEM and the regulations administered by the department can be found at www.state.ri.us/dem.

1200 Geographic Boundaries

The Captain of the Port (COTP) / Federal On-Scene Coordinator (FOSC) of USCG MSO Providence is responsible for oil and hazardous substances response in the coastal zone of the state of Rhode Island and the Southeastern Massachusetts from Westerly, Rhode Island to Manomet Point, Massachusetts, including Cape Cod and all outlying islands located within these eastern and western boundaries.

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The boundary of the Providence Captain of the Port (COTP) Zone is referenced in [33 CFR Part 3.05-20](#). [Figure 1-1](#) is a pictorial representation of the Providence COTP Zone. The USCG and the EPA have agreed upon a boundary for the states of RI and MA delineating inland and coastal zones in Region 1. This boundary is depicted in [Figure 1-2](#). The COTP is the pre-designated FOSC for spills on, and to the seaward side of the boundary and in all cases of spills on offshore islands and ocean waters. Specific detailed information can be located at [EPA/CG Boundary](#). The Marine Safety Manual Volume IX 1.B.2.A contains the instrument of redelegation.

1300 Area Committee

The primary role of the Area Committee is to act as the preparedness and planning body. Area Committees are made up of experienced environmental/response representatives from federal, state, local, and tribal government agencies with definitive responsibilities for the area's environmental integrity. Each member is empowered by their own agency to make decisions on behalf of the agency and to commit the agency to carrying out roles and responsibilities as described in this plan.

1310 Purpose

The Area Committee's objectives are to:

- ☐ Plan for a safe, appropriate, and timely response to all reports of oil or hazardous substance spills;
- ☐ Pre-plan under the Incident Command System (ICS) for joint response efforts, including procedures for mechanical recovery, dispersal, shoreline cleanup, protection of sensitive environmental areas, and protection, rescue, and rehabilitation of fisheries and wildlife; and
- ☐ Expedite decisions for the use of dispersants and other mitigating substances and devices.

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1320 Organization

The pre-designated FOSC will serve as chairman of the Committee. The FOSC will designate the vice-chairman, select the Committee members, and provide general direction and guidance for the Committee. The designated vice-chairs are the Rhode Island Department of Environmental Management (RIDEM) and the Massachusetts Department of Environmental Protection (MADEP). The FOSC will coordinate the activities of the Area Committee and ensure the development of a comprehensive Area Contingency Plan that is consistent with the [National Contingency Plan](#). The FOSC should solicit the advice of the Regional Response Team (RRT) to determine appropriate representatives from federal and state agencies. The Area Committee is encouraged to solicit advice, guidance, or expertise from all appropriate sources and establish subcommittees as necessary. The FOSC will appoint subcommittee members. The FOSC directs the Area Committee's development and maintenance of the Area Contingency Plan. Subcommittee participants may include facility owners/operators, shipping company representatives, cleanup contractors, emergency response officials, marine pilots associations, academia, environmental groups, consultants, response organizations and concerned citizens.

1330 Charter Members

Charter members of the Rhode Island and Southeastern Massachusetts Area Committee are identified in the following diagram: [Area Committee Organization](#). Please contact MSO Providence for a detailed listing of the Area Committee Members.

1400 National Response System

1410 National Response Structure

The purpose of the National Response Policy is to ensure effective and immediate removal of a discharge, and mitigation or prevention of a substantial threat of a discharge, of oil or hazardous substances.

In accordance with COMDTINST 16471.1, the National Interagency Incident Management System (NIIMS) based Incident Command System (ICS) shall be adopted for response to oil and hazardous substance incidents in order to standardize response management.

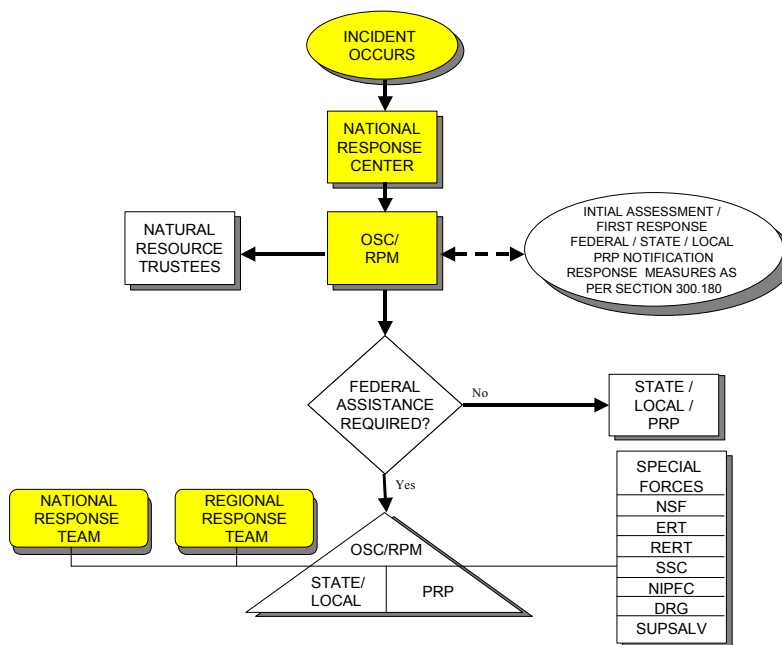
When a discharge of oil or release of hazardous substance occurs, the responsible party (RP), its response contractors, the local fire and police departments, and the local emergency response and USCG personnel provide the first line of defense. If needed, a variety of state agencies stand ready to support, assist, or take over response operations if an incident is beyond local capabilities. Figure 1-3 depicts the notification and decision making requirements during a response.

Figure 1-3

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National Response System



If the reportable quantity or harmful quantity of a hazardous substance release or oil discharge is exceeded, the RP for the discharge/release is required by law to notify the federal government's [National Response Center](#) (NRC).

Once a report is made, the NRC immediately notifies a pre-designated EPA or U.S. Coast Guard [Federal On-Scene Coordinator \(FOSC\)](#), based on the location of the discharge/release. The procedure for determining the lead agency is clearly defined so there is no confusion about who is in charge during a response. The FOSC determines the status of the local response and monitors the situation to determine whether, or how much, federal involvement is necessary. It is the FOSC's job to ensure that the response and cleanup, whether accomplished by industry, local, state, or federal officials, is appropriate, timely, and minimizes human and environmental damage.

The FOSC may determine that the local action is sufficient and that no additional federal action is required. If the incident is large or complex, the FOSC may remain on the scene to monitor the response and advise on the deployment of personnel and equipment. However, the FOSC will coordinate the response in the following situations:

- ☐ If the RP for the discharge of oil or release of hazardous substances is unidentified, not cooperative, or the proposed response would cause additional harm to the environment.
- ☐ If the FOSC determines that the discharge/release is beyond the capacity of the company, local, or state responders to manage; or if the incident is determined to present a substantial threat to public health or welfare due to the size or character of the discharge/release.

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The FOSC may request additional support to respond to a discharge/release, such as additional contractors, technical support from EPA's [Environmental Response Team](#), or Scientific Support Coordinators from the [National Oceanic and Atmospheric Administration](#). The FOSC also may seek support from the [Regional Response Team](#) to access special expertise or to provide additional logistical support. In addition, the [National Response Team](#) stands ready to provide backup support to the FOSC and the RRT.

The FOSC will remain involved following response actions to undertake a number of activities, including assessing damages, supporting restoration efforts, and recovering response costs from the RP for the discharge/release.

1410.1 SONS

A [Spill of National Significance \(SONS\)](#) is defined as a spill which greatly exceeds the response capability at the local and regional levels and which, due to its size, location, and actual or potential for adverse impact on the environment is so complex, it requires extraordinary coordination to contain and clean up. Only the Commandant of the Coast Guard or the Administrator of the EPA can declare a SONS taking into account environmental risks, weather conditions, response capabilities, and the amount, or potential amount, of product spilled.

The response to a SONS event must be a coordinated response that integrates the OSC's response organization with the SONS response organization (Figure 1-4).

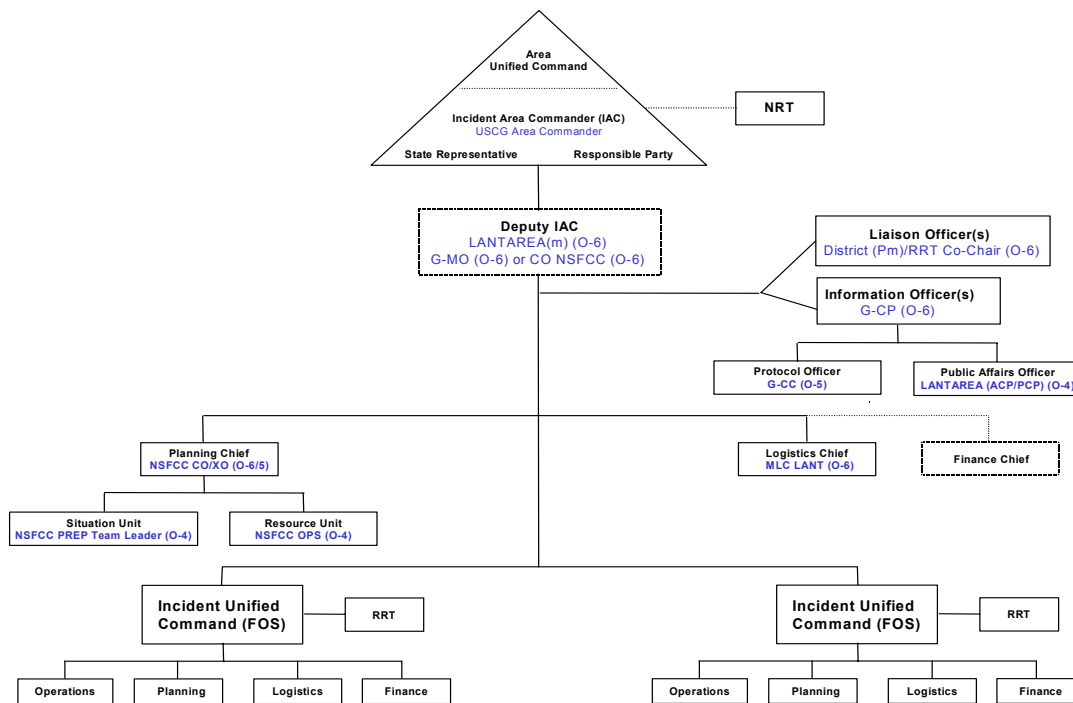
A Coast Guard Area or District Commander may recommend to the Commandant that a SONS be declared. Factors to be considered in declaring a SONS might include:

- ☐ Multiple OSC zones, districts, or international borders;
- ☐ Significant impact or threat to the public health and welfare, wildlife, economy and/or property over a broad geographic area;
- ☐ Protracted period of discharge and/or expected cleanup;
- ☐ Significant public concern and demand for action; and,
- ☐ The existence of, or the potential for, a high level of political and media interest.

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Figure 1-4
Suggested Incident Command System Area Command



Once the Commandant declares a SONS, the following actions will occur.

- ☐ An Incident Area Commander will be designated.
- ☐ Other Departments/Agencies will be notified.
- ☐ A unified Area Command will be established.
- ☐ All pre-designated ICS Area Command staff personnel will be placed on immediate alert.

1420 Regional Response Team (RRT) Structure

The Region 1, RRT is the federal component of the National Response System for the states of Maine, Vermont, New Hampshire, Massachusetts, Rhode Island and Connecticut. RRT I is made up of representatives from [16 federal departments and agencies, each of the States/Commonwealths and Federally Recognized Tribes](#). RRT I

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is co-chaired by the Manager of the Emergency Planning and Response Branch from the Environmental Protection Agency's (EPA) regional office in Boston, MA, and the Chief of the Marine Safety Division of the United States Coast Guard's First District. RRT I meets at least two times per year throughout the region.

RRT I serves as the regional body for planning and preparedness activities and for coordination of support and advice during such response actions. The Region I RRT has developed an operation manual, which provides information on the following:

RRT ACTIVATION PROCEDURES	REGIONAL CONTINGENCY PLAN
COMMITTEES AND WORKGROUPS	OPERATIONS MANUAL REVISIONS
MEETINGS	RRT CALLDOWN EXERCISES
SEMI-ANNUAL REPORTS	JOINT WORK WITH THE CANADIAN GOVERNMENT
RRT REQUESTS FOR OSC REPORTS	JOINT PREPAREDNESS TEAM and the REGIONAL JOINT RESPONSE TEAM

Additional information about the Region I RRT can be found at <http://www.uscg.mil/d1/staff/m/rrt/rrt1.html>.

1430 Area Response Structure

When an Incident Area Command is established, Incident Commanders (COTPs) will report to the Incident Area Commander. The Incident Area Commander is accountable to the Commandant.

It is important to remember that Incident Area Command does not replace the Incident Command level ICS organization or functions. Incident Commanders under the designated Incident Area Commander are responsible to, and should be considered as part of, the overall Incident Area Command organization. They must be provided adequate and clear delegation of authority, especially relating to who specifically is designated as the FOSC, as per [40 CFR 300.140](#) (just one person is designated and acts as FOSC).

The Incident Area Commander will have overall responsibility for strategic management of the discharge/release event. If the response under the authority of the Incident Area Command is multi-jurisdictional, a unified Incident Area Command should be established. This arrangement allows each jurisdiction to have representation in the Incident Area Command. Representatives to the Incident Area Command would typically be at the highest executive levels within a responding organization such as a state governor or direct representative, CEO or President of the affected commercial entity. For the incident(s) under its authority, Incident Area Command has the responsibility to:

- ☐ Set the overall incident-related strategic priorities

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- ☐ Allocate critical resources based on those priorities
- ☐ Ensure that the incident is properly managed
- ☐ Ensure that incident objectives are met and do not conflict with each other or with agency policy

All members of the Area Committee have agreed to use the National Interagency Incident Management System (NIIMS) Incident Command System (ICS) to coordinate a major response. When more than one agency is involved in this response, the agencies will utilize a unified command structure (UCS) to jointly manage the discharge/release incident. In the Unified Command, response decisions will be made by consensus using the expertise of each agency. This Unified Command will typically consist of the Federal On-Scene Coordinator (FOSC), State On-Scene Coordinator (SOSC), possibly a Local On-Scene Coordinator (LOSC) and a RP representative. The unified command may incorporate additional tribal or local government on scene coordinators into the command structure as appropriate. The ICS organization is designed to expand or contract to meet the needs of the incident so not all positions will be filled. New positions can be added as needed. All responders (federal, state, tribal, local and private) should be incorporated into the response organization. [Figure 1-5](#) represents a proposed management structure for an incident response.

When an UCS is used, an Incident Command Post (ICP) and Joint Information Center (JIC) shall be established. The FOSC has the ultimate authority in a response operation and will exert this authority only if the other members of the unified command are not present or are unable to reach consensus within a reasonable time frame.

1430.1 Federal/State Role in Incident Response

MASSACHUSETTS - A representative of the State of Massachusetts will be part of the unified command for incidents occurring in their jurisdiction. The MCP requires people who are responsible for cleanups to hire a Licensed Site Professional ("LSP") to manage and/or oversee the required assessment and cleanup work (310 CMR 40.0169). LSPs collect data on conditions at the site, interpret this data, assess the risks posed by the site to health, safety, public welfare, and the environment, and recommends and oversees necessary cleanup activities consistent with the requirements of the MCP.

For more information please see "A Massachusetts Property Owners Guide to Hiring a Licensed Site Professional" (<http://www.state.ma.us/dep/bwsc/files/lsp.pdf>)

RHODE ISLAND

Rhode Island – A representative of the State of Rhode Island will be the SOSC as part of the unified command for incident occurring in their jurisdiction. Rhode Island shall utilize ICS to provide appropriate personnel to over see the required cleanup and response effort.

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1430.2 Responsibilities for Trans-boundary Impacts

In order to ensure that the FOSC designated to respond to the incident takes into account the planning and response needs of the lesser-impacted area/region, the following guidance applies:

The occurrence of a significant discharge/release in the contiguous waters of interest between two FOSCs will be promptly responded to and initially assessed by the FOSC in whose jurisdiction the discharge/release occurs. The responding FOSC, in assessing the potential impact of the incident, will determine, to the extent practical; the area vulnerable to the greatest threat and the potential for the trans-zone migration of pollutants.

For those incidents where trans-zone impacts are probable, the responding FOSC will promptly notify First District (m)/RRT Co-chair, who will designate a single FOSC, as indicated above. First District (m)/RRT Co-chair will also ensure appropriate notifications are made, especially to representatives from those states whose waters may be adversely impacted by that discharge/release, so as to activate all affected area and regional plans. First District (m)/RRT Co-chair will make appropriate notifications to the RRT.

Coast Guard COTPs in adjoining areas will be directed to assist the designated FOSC by making initial notifications to states, trustees, and other stakeholders in their zones whose waters/resources have the potential of being adversely impacted by the discharge/release.

After initial notifications, the designated FOSC will more thoroughly assess the actual threat from the discharge/release and, in the meantime, will also respond or intervene, to the extent practical, to prevent the spread of the pollutant into the contiguous waters of adjoining COTP's zones. After determining the degree of impact likely, the designated FOSC will convey to adjoining COTPs and states, the level of response expected from them based on the criteria described below.

The designated FOSC, to ensure adjoining COTPs and threatened states are afforded every opportunity to efficiently and effectively communicate their planning and response priorities in mounting a proper response to the incident, will invite representatives from affected parties outside his/her zone to join his/her staff at the unified command post according to the following tiered structure:

If "potentially affected," adjoining COTPs and threatened states will send liaison officers who will report directly to the designated FOSC's Liaison Officer.

If "imminent threat" exists (projected impact to occur within 24 hours, based either on scientific data/trajectory or actual observation), adjoining COTPs and threatened states will send a full complement of staff members who will be integrated directly into all germane ICS functional cells, both at the command and general staff level. States will also send a State On-Scene Coordinator (SOSC) rep who will become part of the Unified Command.

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The First District (m)/RRT Co-chair should convey the designated FOSC's daily information reports about the discharge/release to adjoining COTPs, states and trustees with interest in discharge/releases, as well as to RRT members. To facilitate information flow and sufficient communication acceptable to the parties involved, telephonic conference calls should be used.

As a fail-safe method for adjoining COTPs that are threatened, states or trustees who believe the communication from the discharge/release site is less than adequate, fallback is for each party to refer its complaint directly to the First District (m)/RRT co-chair for resolution.

1440 Incident Command System

The organization of the Incident Command System is built around five major management activities. They are:

COMMAND	Sets objectives and priorities and has overall responsibility at the incident or event
OPERATIONS	Conducts tactical operations to carry out the plan. Develops the tactical objectives. Directs all organizational and equipment resources
PLANNING	Develops the action plan to accomplish the objectives. Collects and evaluates information. Maintains situation and resource status
LOGISTICS	Provides support to meet incident needs. Provides resources and all other services needed to support the incident
FINANCE / ADMINISTRATION	Monitors costs related to incident. Provides accounting, procurement, time recording, cost analyses

These five major management activities apply whether you are handling a routine emergency, organizing for a major event, or managing a major response to a disaster.

On small incidents the Incident Commander (IC), may manage these major activities. Large incidents usually require that they be set up as separate sections within the organization as shown in [Figure 1-5](#).

Each of the primary ICS sections may be sub-divided as needed. The ICS organization has the capability to expand or contract to meet the needs of the incident.

A basic ICS operating guideline is that the person at the top of the organization is responsible until the authority is delegated to another person. Thus, on smaller incidents where additional persons are not required, the Incident Commander will directly manage all aspects of the incident organization.

The [Incident Management Handbook; April 2001](#) should be referenced for additional information.

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ICS forms ([ICSFORMS Solution](#)) is an electronic version of the ICS forms that you can download and use on a Macintosh or Windows PC.

The [Coast Guard Incident Command System \(ICS\) Implementation Plan Manual](#) provides the framework for implementing the National Interagency Incident Management System (NIIMS) ICS throughout the Coast Guard for use during all response operations and the management of major events.

1450 Area Exercise Mechanism

The routine testing of plans, relationships, and notifications ensures preparedness to respond even as the number of actual discharge/releases decreases. Under Preparedness for Response Exercise Program (PREP), plans are regularly tested through notification, tabletop, equipment deployment, and government-initiated unannounced exercises. Additional PREP information, including government-led schedules can be found at the following web site: <http://www.uscg.mil/hq/g-m/nmc/response/#prep>.

The Area exercises are divided into two classification categories; internal and external. The internal exercises are: Notification Drills (quarterly); Spill Management Team Tabletop Exercises (SMT-TTX) (annually); Equipment Deployment Exercises (annually); and, Government Initiated Unannounced Exercises (maximum of 4 per area per year). The external exercises are Government led Area exercises and Industry led Area exercises. The FOSC is responsible for planning, designing, and executing the internal exercises. The National Strike Force Coordination Center (NSFCC) is responsible for scheduling the external exercises and the appropriate FOSC remains involved in the planning, design, and execution of the Government led Area exercises. The FOSC will consult in exercise development and will participate as appropriate in the Industry led Area exercises.

The Area Committee has the responsibility for incorporating the lessons learned during these exercises into the appropriate sections of the Rhode Island and Southeastern Massachusetts ACP.

1460 Federal Response Plan

The capabilities of the National Response System are coordinated by the Federal Emergency Management Agency (FEMA) and provide support to responses under the Federal Response Plan (FRP) through the Emergency Support Function #10 (ESF10). ESF10 is coordinated by the Environmental Protection Agency (EPA) and is vice chaired by USCG D1(m). In the coastal-only disasters, this position is held by First District(m). [COMDINTST forthcoming].

The FRP is a signed agreement among 27 federal departments and agencies, including the American Red Cross, that:

- ☐ Provides the mechanism for coordinating delivery of federal assistance and resources to augment efforts of state and local governments overwhelmed by a major disaster or emergency

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- ☐ Supports implementation of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended ([42 U.S.C. 5121, et. seq.](#)), as well as individual agency statutory authorities
- ☐ Supplements other federal emergency operations plans developed to address specific hazards

The FRP is implemented in anticipation of a significant event that requires federal assistance under a Presidential declaration of a major disaster or emergency. The FRP authorizes deployment of specialized teams for damage assessment, emergency communications, medical assistance and support, urban search and rescue, emergency power restoration, community relations, equipment and supplies such as mobile kitchens, water purification units, portable toilets and showers, tents, and facilities including a Disaster Field Office, mobilization center, Disaster Recovery Centers.

Some federal assistance is available to deliver immediate relief such as:

- ☐ Initial response resources, including food, water, emergency generators.
- ☐ Emergency services to clear debris, open critical transportation routes, provide mass sheltering and feeding.
- ☐ To speed return to normal and reduce damage from future occurrences.
- ☐ Loans and grants to repair or replace damaged housing and personal property.
- ☐ Grants to repair or replace roads and public buildings, incorporating to the extent practical hazard-reduction structural and nonstructural measures.
- ☐ Technical assistance to identify and implement mitigation opportunities to reduce future losses.
- ☐ Other assistance, including crisis counseling, tax relief, legal services, and job placement.

More information about the Federal Response Plan can be located at <http://www.fema.gov/r-n-r/frp/>.

1470 Federal Radiological Response Plan

The Federal Emergency Management Agency has published the Federal Radiological Emergency Response Plan (FRERP) as the operational plan for federal agencies to discharge their responsibilities during peacetime radiological emergencies. The FRERP establishes an organized, integrated capability for participating federal agencies to respond to a wide range of peacetime radiological emergencies. The Plan provides a concept of operations, outlines federal policies and planning considerations, and specifies authorities and responsibilities of each federal agency that has a significant role in such emergencies. The FRERP is now fully operational for use in the federal response to radiological emergencies.

[U.S. National Response Team Report: Reconciling Coordination Issues Between the Federal Radiological Emergency Response Plan and the National Oil and Hazardous Substances Pollution Contingency Plan](#)

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The key issue concerning the relationship between the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) and the Federal Radiological Emergency Response Plan (FRERP) is that both plans apply simultaneously during radiological responses. Consequently, coordination during a radiological emergency is needed between the federal departments and agencies that can potentially respond under these two plans. Furthermore, no formal mechanism currently exists for reconciling the overlaps and perceived conflicts that potentially exist between these two plans, other than relying on the experience and dedication of emergency responders on an ad-hoc basis.

Given the lack of this coordination mechanism, the purpose of this report is to recommend to the NRT a mechanism that addresses: (1) the perceived or potential conflicts between these two plans; (2) the proposed solutions to these perceived or potential conflicts; and (3) the methods for implementing these solutions.

1500 State/Local Response System

See [Section 1430](#).

1600 National Policy & Doctrine

1610 Public vs Private Resource Utilization

While it is the policy of the Commandant to mount an aggressive, timely, efficient response, the FOSC must be mindful that the use of government-owned equipment and resources is not to compete with the use of commercial resources.

Government resource should only be used under specific circumstances:

- For “first aid” spill response until contracted commercial resources arrive on-scene and are operating.
- When commercial resources are not available. This assumes that the RP, Qualified Individual, Incident Commander, or cleanup contractor has sought commercial resources but they are not available.
- Government resources can supplement commercial resources. Government resources are not to be used for the convenience of the responsible party.

1620 Best Response Concept

The Area Committee for RI and SE Massachusetts has adopted the “Best Response Concept” ([Figure 1-6](#)) as defined below.

Best Response depends on the best efforts of the three components of the National Response System.

- ☐ Companies - those responsible for producing, handling, storing, and transporting oil and hazardous materials, and for arranging for mitigation of an accidental discharge or release;
- ☐ Contractors - those who carry out response and cleanup in the event of a discharge or release; and

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- ❑ Government - those federal, state, and local agencies with oversight responsibility for the safe handling of oil and hazardous materials and for ensuring protection of the public and the environment in the event of a discharge or release.

Each component must act responsibly, effectively, and cooperatively to accomplish the shared goal of minimizing the consequences of pollution incidents.

Key Business Drivers are the major categories within a Best Response model.

Critical Success Factors are the specific things that a response must accomplish to be successful. The critical success factors suggested here were compiled from expert-based surveys, which generated lists of things in a response that must go right. (Harrauld, 1993; Walker, 1995). An oil spill response that achieves all or most of these factors will, according to the Best Response precepts, be judged a success.

1630 Cleanup Assessment Protocol

When spilled oil contaminates shoreline habitats, responders must survey the affected areas to determine the appropriate response. Although general approvals or decision tools for using shoreline cleanup methods can be developed during planning stages, responders' specific cleanup recommendations must utilize field data on shoreline habitats, type and degree of shoreline contamination, and spill-specific physical processes. Cleanup endpoints must be established early so that appropriate cleanup methods can be selected to meet the cleanup objectives. Shoreline surveys must be conducted systematically because they are crucial components of effective decisions. Also, repeated surveys are needed to monitor the effectiveness and effects of ongoing treatment methods (changes in shoreline oiling conditions, as well as natural recovery), so that the need for changes in methodology, additional treatment, or constraints can be evaluated.

The [Shoreline Cleanup Assessment Manual, August 2000](#), NOAA/HAZMAT outlines methods for conducting shoreline assessments. Shoreline assessment is a function conducted under the Planning Section of the Incident Command System (ICS).

NOAA's Shoreline Assessment Manual outlines methods you can use to plan and conduct shoreline assessment after an oil spill; you then can incorporate your assessment results into your decision-making process for shoreline cleanup. The [Shoreline Assessment Job Aid](#) is a supplement to the manual. It contains visual examples of many of the terms you would use during shoreline assessments.

1640 Dispersant Pre-Approval/Monitoring/Decision Protocol

For spill situations that are not addressed in the existing pre-authorization plan, the FOSC, with the concurrence of the EPA representative to the RRT and, as appropriate, the concurrence of the RRT representatives from the states with jurisdiction over the navigable waters threatened by the release or discharge, and in consultation with the Department of Commerce (DOC) and Department of Interior (DOI) natural resources trustees, when practicable, may authorize the use of dispersants, surface washing agents, surface collecting agents, bioremediation agents, or miscellaneous oil spill control agents on the oil discharge, provided that the products are listed on the [NCP Product Schedule](#). The [NCP Product Schedule Notebook](#) contains a compilation of

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Product Bulletins summarizing technical information and test results for those products listed on EPA's NCP Product Schedule.

The FOSC may authorize the use of any dispersant, surface washing agent, surface collecting agent, other chemical agent, bioremediation agent, or miscellaneous oil spill control agent, including products not listed on the NCP Product Schedule, without obtaining the concurrence of the EPA representative to the RRT and as appropriate, the RRT representatives from the states with jurisdiction over the navigable waters threatened by the release or discharge, when, in the judgment of the FOSC, the use of the product is necessary to prevent or substantially reduce the hazard to human life.

Whenever the FOSC authorizes the use of a product pursuant to the above paragraph, the FOSC is to inform the EPA RRT representative and as appropriate, the RRT representatives from the affected states and, when practicable, the DOC/DOI natural resources trustees of the use of a product, including products not on the Schedule, as soon as possible. Once the threat to human life has subsided, the continued use of the product shall be in accordance with the concurrence method as described above and 40 CFR 330.910. Sinking agents shall not be authorized for application to oil discharges. For more information on the use of dispersants please see [Section 3260 – Operations: Dispersants](#).

1650 In-situ Burn Approval/Monitoring/Decision Protocol

The FOSC, with the concurrence of the EPA representative to the RRT and, as appropriate, the concurrence of the RRT representatives from the states with jurisdiction over the navigable waters threatened by the release or discharge, and in consultation with the DOC and DOI natural resources trustees, when practicable, may authorize the use of burning agents on a case-by-case basis.

The FOSC may authorize the use of any burning agent, including products not listed on the NCP Product Schedule, without obtaining the concurrence of the EPA representative to the RRT and as appropriate, the RRT representatives from the states with jurisdiction over the navigable waters threatened by the release or discharge, when, in the judgment of the FOSC, the use of the product is necessary to prevent or substantially reduce the hazard to human life. Whenever the FOSC authorizes the use of a product pursuant to this paragraph, the FOSC is to inform the EPA RRT representative and as appropriate, the RRT representatives from the affected states and, when practicable, the DOC/DOI natural resources trustees of the use of a product, including products not on the Schedule, as soon as possible. Once the threat to human life has subsided, the continued use of the product shall be in accordance with the concurrence method as described above and [40 CFR 300.910](#).

For more information on the use of In-Situ Burning [see Section 3270 – Operations: ISB](#).

1660 Bioremediation Approval/Monitoring/Decision Protocol

TBD

1670 Fish and Wildlife Acts (Migratory Bird Act, Marine Mammal Act, Endangered Species Act, etc)

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The [Interagency Agreement Between the U.S. Fish and Wildlife Service and the U.S. Coast Guard for Participation in Pollution Incidents, signed 24 July 1979](#), specifies the conditions and procedures under which the U.S. Fish and Wildlife Service will provide the U.S. Coast Guard Federal On-Scene Coordinators with appropriate technical expertise as well as services in support of the Federal Government's efforts to control and clean up oil and hazardous chemical discharges.

The [Memorandum of Agreement Regarding Oil Spill Planning and Response Activities Under the Federal Water Pollution Control Act's National Oil and Hazardous Substances Pollution Contingency Plan and the Endangered Species Act \(ESA\), July 2001](#) provides guidance for the roles and responsibilities of each agency during pre-spill planning, activities during a spill and post-spill activities.

Migratory Bird Act

A fairly large number of international treaties and domestic laws have been enacted that provide protection for migratory birds. To help put the legal authorities into perspective, we have categorized them as primary and secondary authorities. Primary authorities are international conventions and major domestic laws that focus primarily on migratory birds and their habitats. Secondary authorities are broad-based domestic environmental laws that provide ancillary but significant benefits to migratory birds and their habitats.

The following hyperlink is a Guide to the Laws and Treaties of the United States for Protecting Migratory Birds [USC – TITLE 16: CHAPTER 7 - PROTECTION OF MIGRATORY GAME AND INSECTIVOROUS BIRDS](#)

BIRDS PROTECTED BY THE MIGRATORY BIRD TREATY ACT

Marine Mammal Act

The Act establishes a federal responsibility to conserve marine mammals, with management vested in the Department of Commerce for cetaceans and pinnipeds other than walrus. The Department of the Interior is responsible for all other marine mammals, including sea otter, walrus, polar bear, dugong and manatee. The Act generally assigns identical responsibilities to the Secretaries of the two departments.

[USC – TITLE 16: CHAPTER 31 – MARINE MAMMAL PROTECTION](#)

Endangered Species Act

This act protects animal and plant species currently in danger of extinction (endangered) and those that may become endangered in the foreseeable future (threatened). The Endangered Species Act of 1973 provides for the conservation of ecosystems upon which threatened and endangered species of fish, wildlife, and plants depend, both through federal action and by encouraging the establishment of state programs. The act:

- ☐ Authorizes the determination and listing of species as endangered and threatened.
- ☐ Prohibits unauthorized taking, possession, sale, and transport of endangered species.

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- ☐ Provides authority to acquire land for the conservation of listed species, using land and water conservation funds.
- ☐ Authorizes establishment of cooperative agreements and grants-in-aid to states that establish and maintain active and adequate programs for endangered and threatened wildlife and plants.
- ☐ Authorizes the assessment of civil and criminal penalties for violating the act or regulations.
- ☐ Authorizes the payment of rewards to anyone furnishing information leading to arrest and conviction for any violation of the act.

1670.1 Fish and Wildlife Annex

This Annex complements the Environmental Sensitivity Index (ESI) maps, which provide graphic locations and iconic information of sensitive areas in Rhode Island and Southeastern Massachusetts, and includes additional information to assist the FOSC in the sensitive environment identification process. This Annex also identifies response techniques and processes to facilitate coordination and consideration of potential environmental impacts during spill response. Information contained in this Annex coupled with the ESI will aid responders in identifying and minimizing ecological impacts of a spill over a wide range of locations and circumstances by helping them evaluate and implement response techniques for spills in various aquatic environments and shoreline habitats. This Annex provides a regional perspective to aid the Area Committees in identifying special areas of concern requiring specific consideration during planning. For more information reference the [Fish and Wildlife and Sensitive Environments Annex to the Rhode Island and Southeastern Massachusetts Area Contingency Plan.](#)

1680 Protection of Historic Properties

The NCP does not provide specific guidance for taking historic properties into account during emergency response to an actual or threatened release of a hazardous substance, pollutant or contaminant or the discharge of oil or other pollutants (hereinafter, a release or spill). Also, emergency provisions contained in the regulations implementing Section 106 of the National Historic Preservation Act (NHPA) do not directly address requirements for such emergency responses. Accordingly, for the purpose of the [Programmatic Agreement on Protection of Historic Properties](#), an "emergency" shall be deemed to exist whenever circumstances dictate that a response action to a release or spill must be taken so expeditiously that normal consideration of the Section 106 process is not reasonably practicable.

The purpose of the [Programmatic Agreement on Protection of Historic Properties](#) is to provide an alternative process to ensure appropriate consideration of historic properties within the meaning of the NHPA during emergency response to a release or spill.

In carrying out duties under the NCP, including the priorities of protecting public health and safety, the FOSC may have to make emergency response decisions that adversely affect historic properties. By following the [Programmatic Agreement on Protection of Historic Properties](#), however, the FOSC will be making an informed decision that takes

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historic property information into account prior to authorizing actions that might affect such property.

The responsibility of the FOSC in protecting public health and safety is paramount. That mission is a difficult one involving problems that cannot be anticipated and calling for judgment on the part of the FOSC. Noting the [Programmatic Agreement on Protection of Historic Properties](#) changes the national response priorities, nor does it change the effect of existing law.

The [Massachusetts Historical Commission](#) (MHC) is the state historic preservation office and is authorized by M.G.L. Chapter 9, Section 26-27C to identify, evaluate and protect the Commonwealth's important historic and archaeological resources.

The [Historical Preservation and Heritage Commission](#) is Rhode Island's only statewide historic preservation program that identifies and protects historic buildings, districts, and archaeological sites. The Commission conducts statewide surveys of historic sites and buildings; nominates significant properties to the National Register of Historic Places and the State Register; administers programs of financial aid including grants, loans, and tax credits; reviews federal, state and local projects to protect cultural resources; regulates archaeology on state land and under state territorial waters; and assists the preservation efforts of local governments, preservation societies, and property owners.

1690 Alternative Response Technical Evaluation System (ARTES)

ARTES is designed to provide the FOSC with a method for evaluating optional response countermeasures in advance or during an oil or chemical spill. A FOSC may use the ARTES for evaluating proposed conventional but unfamiliar countermeasures as well, such as alternative sorbents. For more information regarding ARTES see.

<http://www.uscg.mil/lantarea/rtr/rcp/policy%20f/artes%20f/2ARTESFIG1index.html>

1695 Specialized Monitoring of Applied Response Technology (SMART)

SMART establishes a monitoring system for rapid collection and reporting of real-time, scientifically based information, in order to assist the Unified Command with decision making during in-situ burning or dispersant operations. For more information about SMART see <http://www.uscg.mil/vrp/reg/smart.shtml>

1700 Reserved

1800 Reserved

1900 Reserved Area/District

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